

OP-22.14, "Inmate Disciplinary System,"

SCDC POLICY

This policy has been developed and/or revised in response to and as a portion of the Remedial Plan agreed upon by the parties in the settlement of T.R. V. South Carolina Department of Corrections, No. 2005-CP-40-02925. As agreed by the parties in the Settlement Agreement, it is the understanding and agreement of the parties that implementation and effectuation of the provisions of this policy as a portion of the Remedial Plan shall be phased in over time and all aspects shall not become effective immediately. (See Section 2 - Summary of Agreement and Section 4 (f) - Implementation Phase-In of Settlement Agreement effective May 2, 2016).

Change 1 to OP-22.14: 5.1.2; 6.2

Change 2 to OP-22.14:9.6; Definitions

Change 3 to OP-22.14:903

Change 4 to OP-22.14: 5.1.2; 6.1.6; 6.2;6.4; 8.1.1; 15.1; 15.2; 15.3; 15.5; 17; 17.6.1; 20; 28; 822; 907

NUMBER: OP-22.14

TITLE: INMATE DISCIPLINARY SYSTEM

ISSUE DATE: FEBRUARY 2, 2015

RESPONSIBLE AUTHORITY: DIVISION OF OPERATIONS

OPERATIONS MANUAL: OPERATIONS

SUPERSEDES: OP-22.14 (July 1, 2012); (September 1, 2009); (October 1, 2007); (May 14, 2004)

RELEVANT SCDC FORMS/SUPPLIES: 10-5, 19-11, 19-29A, 19-69, 19-71, 19-79, 19-106, S-29

ACA/CAC STANDARDS: Not annotated

STATE/FEDERAL STATUTES: S.C. Code of Laws, Sections 24-1-140, and 24-13-210, Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79) PREA Standard 115.14; PREA Standard 115.78; American Disabilities Act (ADA), Section 504 of the Rehabilitation Act.

PURPOSE: To provide guidelines for the administration and application of the South Carolina Department of Corrections' (SCDC) Inmate Disciplinary System.

POLICY STATEMENT: To promote the order and maintain the security and safety of the South Carolina Department of Corrections (SCDC), the SCDC will develop and administer an Inmate Disciplinary System to provide appropriate redress and sanctions for violations of any Agency rules and regulations and federal/state statutes by inmates. The administration and application of the Inmate Disciplinary System will be completed in compliance with all applicable state and federal statutes, rules and regulations, and in a manner that ensures inmates are afforded adequate due process protection. All inmates under the custody of the SCDC are required to abide by the rules and regulations established by the SCDC. Inmates who violate any of the rules and regulations of the SCDC may be subject to disciplinary action under the terms of this policy/procedure. When an inmate has committed a crime, criminal prosecution may also be pursued.

SPECIAL NOTES See PS-10.09, "Youthful Offender Intensification Program (YOIP)," for supplemental procedures that govern the disciplinary process for offenders sentenced under the Youthful Offender Act.

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1. GENERAL PROVISIONS:

1.1 All SCDC rules and regulations for which an inmate may be disciplined must be in written form describing disciplinary offenses, sanctions, and penalties; must provide adequate notice of the conduct prohibited by SCDC; must be appropriately distributed for inmates to review; and must be reviewed by the responsible authority annually, and updated as necessary. These rules will be enforced and ignorance of the rules will not be accepted as an excuse for disciplinary offenses. A written explanation of the inmate disciplinary system will be provided to each inmate during the inmate's processing at the Reception and Evaluation Center. Receipt of the written explanation by inmates will be documented via the fiscal/commissary automated system.

1.2 When an inmate exhibits a literacy or language problem, an employee will be designated at each institution to assist the inmate in understanding the rules. A memorandum from the Warden will be posted for the staff and inmate population identifying the employee(s) designated to assist the inmates. This memorandum will be updated as necessary.

1.3 Employees who work with inmates will receive training regarding rules of inmate conduct, the rationale for the rules, and the sanctions available.

1.4 If the inmate has a mental health issue noted on his/her MEDCLASS screen or is acting in such a manner that indicates a mental health concern, then a copy of SCDC Form 19-29A, "Incident Report," must be forwarded to the mental health staff. This referral must be documented on SCDC Form 19-29A. In these instances, a memorandum from the mental health care professional must be included as an attachment to SCDC Form 19-29A, attesting to the inmate's mental status and accountability for his/her actions. Refer to SCDC Policy HS-19.01, "Placement of Inmates in Mental Health Observation and Evaluation Status," for additional information.)

2. IMMEDIATE CORRECTIVE ACTION:

2.1 When an SCDC employee witnesses or has knowledge of any act by an inmate which is a Level 3, 4, or 5 disciplinary offense of the rules and regulations of the SCDC, the employee will first attempt, if appropriate, to correct the behavior immediately. The circumstances of the disciplinary offense and the inmate's disciplinary history should be taken into consideration when determining whether or not to attempt to correct the behavior on the spot. Corrective action may include:

- Counseling;
- Instructions, or directives;
- Verbal reprimand;
- Extra duty or chores not to exceed four (4) hours;
- Restriction of recreation time not to exceed one (1) day (general population only);
- Restriction of television viewing and/or radio not to exceed one (1) day;
- Restriction of canteen privileges not to exceed one (1) day;
- And/or confinement to his/her cell or cubicle for the remainder of the shift;
- If confinement to his/her cell is to exceed the shift, approval must be obtained from the shift supervisor.

This confinement cannot exceed 24 hours.

2.2 If the inmate's behavior cannot be corrected on the spot by the observing employee, the employee will bring the matter to the attention of the supervisor on-duty. All Level 1 and 2 disciplinary offenses will be documented on SCDC Form 19-29A within 24 hours of the incident. If the disciplinary offense is a Level 3, 4, or 5, the supervisor on-duty may attempt to resolve the matter with the above actions, if appropriate. The supervisor may also impose an additional four (4) hours of extra duty or chores (for a total of eight (8) hours) and/or up to seventy-two hours of cell/cubicle confinement.

3. SUPERVISORS' REVIEW/RESPONSIBILITIES: If the supervisor on-duty cannot correct the inmate's behavior using the corrective actions listed in Paragraph 2.1 and 2.2, above, or if the incident is too serious to be resolved in this manner, s/he will instruct the observing employee to complete SCDC Form 19-29A. This report will be typed (if possible) and will, at a minimum, include the following information:

- Institution/Center;
- Reporting Official's Full Name,
- Location of Incident;
- Date/Time of Report;
- Date/Time of Incident, or Date of Discovery;
- Employee(s)/Witnesses Involved.

3.1 A description of the facts of the offense(s), to include, at a minimum:

- The name and SCDC number of the inmate;
- The names of all witnesses;
- The general location of the offense;
- A full statement of the facts underlying the offense, to include witnesses, evidence, and disposition of evidence, and
- The reporting employee's signature, title, list of any evidence, and disposition of evidence.

3.2 Review: The supervisor will review SCDC Form 19-29A within 24 hours of the incident or date of discovery, unless there are exceptional circumstances for delaying this review, which must be approved by the Warden or Associate Warden. The review may include interviewing the reporting employee, other employee witnesses, the accused inmate, or the accused inmate's witnesses. Upon review, the supervisor will make a determination whether to refer the inmate to the Major/Responsible Authority (Responsible Authority includes the Warden or Duty Warden, or for institutions with no Major assigned, the Captain) for disciplinary action. The supervisor will document his/her review in the space provided on SCDC Form 19-29A and will annotate the form in the proper block to indicate whether or not the incident was Security Threat Group (STG) or drug related. NOTE: If the inmate has a mental health issue noted on his/her MEDCLASS screen or is acting in such a manner that indicates a mental health concern, then a copy of the SCDC Form 19-29A must be forwarded to the mental health staff. This referral must be documented on the SCDC Form 19-29A. In these instances, a memorandum from the mental health care professional must be included as an attachment to SCDC Form 19-29A attesting to the inmate's mental status and accountability for his/her actions. Refer to SCDC Policy/Procedure HS-19.01, "Placement of Inmates in Mental Health Observation and Evaluation Status," for additional information.)

4. MAJOR/RESPONSIBLE AUTHORITY REVIEW:

4.1 Formally Charging the Inmate: The Major/Responsible Authority will have up to nine (9) calendar days from the date of the incident or date of discovery of the incident to take one of the following three (3) actions:

- Informally Resolve the incident;

- Administratively Resolve the incident; or
- Formally charge the inmate and refer the incident to a Disciplinary Hearing. NOTE: When the disciplinary offense has been received by the Hearing Officer, the disciplinary offense will not be rescinded for Informal/Administrative Resolution without written approval by the Division of Operations.

4.1.1 All Level I and II disciplinary offenses will be heard Hearing Officer only.

4.2 The Major/Responsible Authority will review the inmate's disciplinary history and the SCDC Form 19-29A. After this review, the Major/Responsible Authority will use the space provided on the SCDC Form 19-29A to indicate his/her decision and then will sign and date the SCDC Form 19-29A. The inmate will be considered formally charged on the date the disciplinary is entered into the Offender Management System (OMS).

4.3 Extension for Investigations:

4.3.1 Institutional Investigations: If the Major/Responsible Authority believes that further investigation of the circumstances is needed in order to determine the inmate(s) to be charged, the nature of their acts, etc., then he/she can direct that an institutional investigation be conducted. Investigations conducted by the institution will be completed within 21 calendar days. The start and end of the 21 day initial investigation should be documented on SCDC Form 19-29 A, by the Major/Responsible Authority. An entry of investigation should be made into the OMS. The OMS narrative should reflect the beginning and ending dates of the investigation, to include any extensions, if applicable. If more than 21 calendar days are required for completion of the investigation, an extension may be granted by the Division of Operations. The written extension request should be completed and signed by the Warden/Designee and approved by the Division of Operations prior to the expiration of the initial 21 days. The 21-day extension will commence on the date of approval by the Division of Operations. The nine (9) day time frame for entering the charge into the system will commence from the date of the completion of the investigation and submission of the results in writing.

4.3.2 Inspector General Investigations: Investigations conducted by the Inspector General (IG) will be conducted in accordance with Agency Policy. Due to the serious nature of the matters referred to the IG, and due to the requirement that certain matters must be referred to other law enforcement entities, a prescribed time frame will not be established. The OMS entry described in paragraph 4.3.1 will be completed. Upon completion of the investigation by the IG or receipt of a completed investigation from an outside law enforcement entity, a report will be furnished by the IG to the Warden through the Division of Operations. The nine (9) day time frame for entering the charge into the system will commence from the date the investigative report is submitted to the Warden, Associate Warden or Major. The 24-hour review by a supervisor will not be required in these instances.

4.3.3 In cases where the investigative report confirms the decision to take internal disciplinary action against an inmate, the decision how to logistically charge the inmate will be made mutually by the Division

of Operations, the Warden at the Institution where the incident occurred, and the Warden of the Institution where the inmate is housed (if different). Because time frame issues could result from the amount of time between the incident and the issuance of an investigative report, the Division of Operations will coordinate any necessary requests to waive time frames in order for the disciplinary hearing to be heard. The OMS narrative should reflect the beginning and ending dates of the investigation, as well as the requests to waive time frames.

4.4 When the Major/Responsible Authority is unsure about whether or not a Level 3, 4, or 5 Disciplinary Infraction should be resolved by Informal Resolution, Administrative Resolution, or should be referred to a Disciplinary Hearing, s/he will confer with the assigned Hearing Officer and jointly determine the appropriate disciplinary response. If an agreement is reached, the appropriate disciplinary action (Informal Resolution, Administrative Resolution, or Disciplinary Hearing) will proceed. If these two employees cannot agree on the appropriate disciplinary action, the Warden will confer with the Division of Operations to arrive at the most appropriate disciplinary action.

5. INFORMAL RESOLUTION:

5.1 The inmate will appear in person before the Major/Responsible Authority who will read the charge and the narrative to the inmate, allow the inmate to respond to the charge, and then make a decision as to the inmate's guilt or innocence.

5.1.1 If the inmate has a mental health issue noted on his/her MEDCLASS screen or is acting in such a manner that indicates a mental health concern, then a copy of SCDC Form 19-29A must be forwarded to the mental health staff. This referral must be documented on SCDC Form 19-29A. In these instances, a memorandum from the mental health care professional must be included as an attachment to SCDC Form 19-29A attesting to the inmate's mental status and accountability for his/her actions. Refer to SCDC Policy/Procedure HS-19.01, "Placement of Inmates in Mental Health Observation and Evaluation Status," for additional information.)

5.1.2 If found guilty, the Major/Responsible Authority may impose any two (2) of the following sanctions on the inmate as a means of resolving the incident informally:

- Counseling;
- Instructions or directives;
- Verbal reprimand;
- Extra duty or chores up to 40 hours;
- Restriction of recreation time (general population only) up to 10 days;
- Restriction of canteen, visitation, or other privileges up to 20 days;
- Restriction of television viewing and/or radio up to 20 days;
- Payment of restitution;
- Cell or cube restriction up to 10 days. (See Paragraph 26.1 through 26.2.2 below, for rules related to Cell or Cube Restriction.)

NOTE: ~~Visitation and Telephone restrictions can be imposed only if the charge involved visitation or telephone disciplinary offenses.~~ Visitation and Telephone restrictions can be imposed up to 20 days if the inmate does not have a MH classification regardless of the disciplinary offense. If the inmate has a MH classification, Visitation and Telephone restrictions can be imposed only if the charge involved visitation or telephone disciplinary offenses. (Changes in BLUE, amended by Change 1, dated May 29, 2015.)

NOTE: The Major/Responsible Authority will not impose sanctions on inmates found to be ~~GBN~~ANGMI or ~~GWM~~CGMI by a Mental Health Professional. Inmates with a mental health issue/classification will be referred to the Mental Health Disciplinary Treatment Team (MHDTT) for appropriate sanctions. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

5.2 The Major/Responsible Authority may impose any of the above sanctions and may suspend implementation of these sanctions for up to 90 days if the inmate does not commit any additional disciplinary infractions during that time period. The advantage to the inmate of informal resolution is that the inmate does not lose, nor does s/he fail to earn, good time. The Major/Responsible Authority will document the action taken on SCDC Form 19-106, "Inmate Disciplinary System Informal/Administrative Resolution," and explain the following issues to the inmate. All dispositions will be entered in the OMS within two (2) working days of the informal resolution.

5.2.1 The inmate has the right to decline informal resolution and request that the incident be referred to a disciplinary hearing. However, if the inmate is convicted as a result of a hearing, the inmate will fail to earn good time for that month, the Hearing Officer has the authority to take accrued good time, and the Hearing Officer may levy additional sanctions. (NOTE: Should the inmate decline informal or administrative resolution, the inmate will sign and date the SCDC Form 19-106, and it will be forwarded by the Major/Responsible Authority to the Hearing Officer.)

5.2.2 The inmate waives any appeal rights including grievance rights under the Agency Inmate Grievance System and those pursuant to *Al-Shabazz v. State* if s/he accepts the informal resolution.

5.2.3 If the inmate accepts informal resolution, s/he will be required to sign and date the SCDC Form 19-106, accepting informal resolution, waiving the privilege of a disciplinary hearing, and waiving his/her grievance rights.

5.3 The incident is entered into the automated system as a "CLOSED" incident. NOTE: A closed entry acknowledges a conviction of an offense, but ensures no good time is taken.)

6. ADMINISTRATIVE RESOLUTION:

6.1 If the Major/Responsible Authority believes that the inmate's offense should not be resolved informally, as discussed in Paragraph 5., above, the inmate will appear in person before the Major/Responsible Authority who will read the charge and the narrative to the inmate, allow the inmate to respond to the charge, and then make a decision as to the inmate's guilt or innocence.

6.1.1 If the inmate has a mental health issue noted on his/her MEDCLASS screen or is acting in such a manner that indicates a mental health concern, then a copy of the SCDC Form 19-29A must be forwarded to the mental health staff. The MHP will prepare a MH Statement as to the inmate's status that will be considered during the disciplinary hearing.

6.1.2 If found guilty, the Major/Responsible Authority may offer the inmate the opportunity to resolve the incident administratively. The advantage to the inmate of administrative resolution is that the inmate will fail to earn good time for the month of the infraction (if eligible to earn good time), but no earned good time will be taken from the inmate. The circumstances of the offense and the inmate's disciplinary history should be taken into consideration. The Major/Responsible Authority will complete SCDC Form 19-106, and explain the following issues to the inmate. All dispositions will be entered in the OMS within two (2) working days of the administration resolution.

6.1.3 The inmate has the right to refuse administrative resolution and request that the incident be referred to a disciplinary hearing, however, the Hearing Officer has the authority to levy additional sanctions and to take accrued good time if the inmate is found guilty of the incident. (NOTE: Should the inmate decline informal or Administrative Resolution, the inmate will sign and date SCDC Form 19-106, and it will be forwarded to the Hearing Officer by the Major/Responsible Authority.

6.1.4 The inmate waives any appeal rights including grievance rights under the SCDC Inmate Grievance System and those pursuant to *Al-Shabazz v. State* if s/he accepts the administrative resolution.

6.1.5 If the inmate is eligible to earn good time, s/he will fail to earn good time (3 or 20 days dependent on the inmate's conviction) for the month of the incident, but no earned good time will be taken if s/he accepts administrative resolution.

6.1.6 The Major/Responsible Authority will not impose sanctions on inmates found to be ~~GBN~~ANGMI or ~~GWM~~CGMI by a Mental Health Professional. If the inmate has a mental health issue, the results of this resolution hearing will be reviewed by the Mental Health Disciplinary Treatment Team to determine if the sanctions agreed to were appropriate. (Changes inBLUE, amended by Change 4, dated August 26, 2016.)

6.2 The Major/Responsible Authority may impose anytwo (2) of the following sanctions on the inmate as a means of resolving the incident administratively:

- Counseling;
- Instructions or directives;
- Verbal reprimand;
- Extra duty or chores up to 40 hours;
- Restriction of recreation time (general population only) up to 10 days;
- Restriction of canteen, visitation, or other privileges up to 20 days;
- Restriction of television viewing and/or radio up to 20 days;
- Payment of restitution;

- Cell or cube restriction up to 10 days (see Paragraph 26.1 through 26.2.2, below for rules related to Cell or Cube Restriction);
- Disciplinary detention up to 10 days in an institutional Restrictive Housing Unit (RHU).

NOTE: ~~Visitation and Telephone restrictions can be imposed only if the charge involved visitation or telephone disciplinary offenses.~~ Visitation and Telephone restrictions can be imposed up to 20 days if the inmate does not have a MH classification regardless of the disciplinary offense. If the inmate has a MH classification, Visitation and Telephone restrictions can be imposed only if the charge involved visitation or telephone disciplinary offenses.(Changes in BLUE below, amended by Change 1, dated May 29, 2015.)

NOTE: The Major/Responsible Authority will not impose sanctions on inmates found to be ~~GBN~~ANGMI or ~~GWMC~~ GMI by a Mental Health Professional. Inmates with a mental health issue/classification will be referred to the Mental Health Disciplinary Treatment Team (MHDTT) for appropriate sanctions. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

6.3 The Major/Responsible Authority may impose any of the above sanctions or combination of sanctions and may suspend implementation of these sanctions for up to 90 days if the inmate does not commit any additional disciplinary infractions during that time period. If the inmate accepts administrative resolution, s/he will be required to sign SCDC Form 19-106, accepting administrative resolution, waiving the privilege of a disciplinary hearing, and waiving his/her grievance rights. If the inmate does not wish to accept administrative resolution, the Major/Responsible Authority will refer the matter for a disciplinary hearing.

6.4 If the inmate accepts the administrative resolution, the incident is entered into the automated system with a plea of "Guilty" and disposition of either Convicted, ~~GBNA~~ NGMI, or ~~GWMC~~ GMI. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

7. DISCIPLINARY HEARINGS:

7.1 Inmates will be served with notice of disciplinary charges at least forty-eight(48) hours prior to their hearings. Should the inmate refuse to sign SCDC Form 19-69, "Inmate Disciplinary Report and Hearing Record", s/he will forfeit the opportunity to request that their accuser and/or witness(s) be present at their scheduled hearing. If an inmate with a mental health issue refuses to sign their SCDC Form 19-69 or refuses to attend the DHO hearing, the inmate will be represented by a Counsel Substitute who can request the presence of the inmate's accuser and/or witnesses. If the inmate has a mental health issue noted on his/her MEDCLASS screen or is acting in such a manner that indicates a mental health concern, then a copy of SCDC Form 19-29A must be forwarded to the mental health staff. The MHP will prepare a MH Statement as to the inmate's status that will be considered during the disciplinary hearing.

7.2 Once the inmate is formally charged (and entered into the Offender Management System), the hearing will be held within 21 calendar days. SCDC Form 19-69, will be used to document the charges and the results of the hearing. The charges will be explained by the Hearing Officer to the inmate in terms s/he can understand. Inmates may not be subjected to any form of coercion designed to persuade them to waive their rights to 48 hour notice. If inmates are offered the opportunity to waive the 48 hours notice, they must be fully informed, in terms understandable to them, of the nature of the rights at stake. In addition, an inmate may waive his/her right to a hearing and indicate such on SCDC Form 19-69. When an inmate waives

his/her right to a hearing, the Hearing Officer will review the waiver section of the SCDC Form 19-69, conduct the hearing in the absence of the inmate, determine guilt or innocence; if guilty, decide on appropriate penalties, and notify the inmate of the same using SCDC Form 19-69. Should an inmate refuse to sign a waiver and/or attend the hearing, the hearing will be held in the inmate's absence and recorded. NOTE: The Hearing Officer will determine if a witness(es) will testify should an inmate waive his/her right to attend their hearing. (4-4237)

7.3 If the inmate has a mental health issue, the results of the disciplinary hearing will be referred to the Mental Health Disciplinary Treatment Team to determine if the sanctions were appropriate, or impose appropriate sanctions.

7.4 The inmate may submit a written statement to the Hearing Officer in response to the charges. In addition, the inmate may make a verbal statement in his/her defense during the hearing. At the time an inmate is served with notice pursuant to a disciplinary hearing, the inmate will be informed of these rights. Confirmation that the inmate was advised of these rights will be noted on the original copy of SCDC Form 19-69.

7.5 One (1), 21 calendar day extension for holding the hearing will be allowed only with the written approval of the Division of Operations for unforeseen circumstances (inmate assault leave, employee extended leave, family medical emergency, etc.) via a memorandum. The extension must be submitted to the Division of Operations prior to the expiration of the initial 21 calendar day period. If approved, the 21 calendar day extension will begin after the completion of the initial 21 day hearing period, or the date signed by the Division of Operations. The expiration date of the initial 21 day period must be noted in the memorandum. Only one (1) such extension will be authorized. If the extension is approved by the Division of Operations, the inmate will be provided with a copy of the approval.

7.6 When an investigation is needed, the nine (9) calendar days begins once the investigation information is submitted to the Major (or Captain at those institutions with no Major) or higher authority. (NOTE: An investigation conclusion date will be noted on the investigative information report.)

7.7 If the inmate is transferred to another institution, the hearing will still be held within 21 calendar days of being charged, unless extenuating circumstances prevent the hearing. For extenuating circumstances, the Deputy Director of Operations or designee may approve an extension. All documentation concerning the charges will be forwarded to the receiving institution promptly upon transfer of the inmate.

7.8 Disciplinary hearings held more than 30 calendar days after the incident date or date of the discovery of the incident, may only be held if approved by the Division of Operations. It will be the responsibility of the Warden where the inmate was charged to provide justification for disciplinary action beyond 30 calendar days.

8. COUNSEL SUBSTITUTES: Each institution will assign an employee(s) to act as a Counsel Substitute. A Counsel Substitute is an SCDC non-uniformed employee who is assigned to assist inmates with a disciplinary hearing by interviewing witnesses and presenting documentary evidence and relevant information at the hearing. (NOTE: Food Service staff, although uniformed, can serve as a Counsel

Substitute.)

8.1 Inmates will be assigned a Counsel Substitute at least forty-eight (48) hours prior to a hearing in the following cases: (NOTE: The Counsel Substitute must meet with the inmate at least one working day prior to the scheduled disciplinary hearing.)

8.1.1 When the inmate is intellectually impaired or has a physical disability which makes it difficult for him/her to understand and/or participate in the disciplinary process, Counsel Substitutes will be appointed in all cases in which: inmates are assigned to a sheltered unit for the intellectually impaired, i.e., Habilitation Unit, etc.; or inmates have questionable mental intellect or a ~~mental illness as confirmed by mental health personnel~~ mental health classification of L1, L2, or L3. An inmate with a mental health classification of L4 (Out Patient Mental Health) will not be assigned a counsel substitute unless the DHO determines that the inmates disposition indicates they need assistance or if the inmate, who is not in the general population, requests the assistance of a counsel substitute. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

8.1.2 When the inmate's literacy or understanding of English is questionable. (NOTE: Inmates reading at a 6.0 grade level and below will be assigned a counsel substitute. The highest consistent TABE Test reading level noted in the Offender Management Screen will be the reading level considered when deciding if an inmate should be assigned a counsel substitute.) The WRAT test score can be used if no TABE Test score is available.

8.1.3 When the inmate, because of the complexity of the issue, will be unlikely to be able to collect and present the evidence necessary for an adequate comprehension of the case.

8.1.4 When the inmate is confined to a segregation status pending the hearing, unless the inmate documents on the SCDC Form 19-69, or verbally states on the recording that s/he does not want a counsel substitute and they have no mental health issues.

8.1.5 If at the time the inmate is served the SCDC Form 19-69, he/she is on lockdown status, unless the inmate documents on the SCDC Form 19-69, or verbally states on the recording that s/he does not want a counsel substitute. If the inmate has a mental health issue, he/she will be assigned a counsel substitute to assist him/her with their hearing.

8.1.6 When a witness requested by the accused inmate is unable to attend a disciplinary hearing because either the requested witness or the accused inmate has been transferred to another institution. (NOTE: Inmates who exhibit inappropriate behavior with a counsel substitute will forfeit the use of counsel substitute and may be charged accordingly.)

8.2 Responsibilities: Prior to the disciplinary hearing, the Counsel Substitute has the following responsibilities in preparing for the hearing:

8.2.1 When the inmate's literacy or understanding of English is questionable, the Counsel Substitute will read the SCDC Form 19-29A and SCDC Form 19-69 to the accused inmate, ensure that the inmate has

received copies of SCDC Form 19-29A and SCDC Form 19-69, and that the inmate understands the charge, as well as the facts and evidence underlying the charge.

8.2.2 Obtain the accused inmate's statement as to exactly what took place.

8.2.3 Obtain the names of all employees and inmates whom the accused wishes to call as witnesses.

8.2.4 Interview relevant witnesses prior to the hearing and obtain written statements or oral testimonies from the inmates to present during the hearing. (NOTE: Inmates will be required to use SCDC Form 19-11, "Request to Staff Member," listing the names of all witnesses they wish to be made available at their hearing. Inmates in the general population are to use the automated Request To Staff Member System (ARTSM) through the Kiosk. The form must be addressed to the inmate's Counsel Substitute or to the Hearing Officer if no Counsel Substitute has been assigned and must be received no later than 24 hours prior to the hearing.)

8.2.5 Inform the Hearing Officer of the names of all witnesses the inmate has requested.

8.2.6 Obtain any documentary evidence relevant to the case that is not already in the possession of the accused inmate.

9. HEARING OFFICER DUTIES: The Hearing Officer is responsible for the following:

9.1 Implementing and adhering to established guidelines as they relate to the hearing phase of the disciplinary process;

9.2 Overseeing and coordinating due process hearings for inmates with disciplinary offenses to include, but not be limited to maintaining an automated disciplinary case tracking system, and providing assistance to the institutions in setting case dockets and proper scheduling of rule violators to appear at hearings in the prescribed time limits set forth above.

9.3 Ensuring that the appropriate transactions are executed in the inmate's automated record within two (2) working days of the completion of the SCDC Form 19-69.

9.4 The charges will be explained by the Hearing Officer to the inmate in terms s/he can understand. The Hearing Officer will also inform the inmate that if a guilty plea is rendered or if s/he is found guilty, s/he will automatically fail to earn his/her normal rate of good time (3 or 20 days depending on his/her conviction[s]) for the date/month of the rules disciplinary offense. The Hearing Officer will inform the inmate of additional sanctions that may be imposed in addition to the forfeiture of earned good time if found guilty, or if they plead guilty.

9.5 The Hearing Officer will ensure that inmates with mental health issues, or language barriers are provided the necessary assistance to understand the disciplinary proceedings. The necessary assistance may

require the postponement of the disciplinary hearing. NOTE: Must be noted on SCDC Form 19-69 and on the hearing recording.

9.6 If, during the hearing, the Hearing Officer determines that the report should have been processed as a ~~lesser-included~~ lower level offense that more appropriately characterizes the incident, the Hearing Officer should reduce the charge to the ~~lesser-included~~ lower level offense. In such cases, there is no need to provide the accused inmate with an additional 48hour notice to prepare for the hearing. However, if the Hearing Officer determines that another offense of an equal level is more appropriate, the inmate is entitled to an additional 48 hours notice in order to prepare for the new charge. (Changes in BLUE, amended by Change 2, dated January 27, 2016.)

9.7 The Hearing Officer will complete SCDC Form 19-69, which will become a permanent part of the inmate's institutional and central records.

10. RECORDER: Each Warden will assign two (2) employees as a recorder. A recorder is an SCDC employee who is assigned to assist the Hearing Officer and the Major/Responsible Authority with their duties as it relates to the disciplinary process. S/he will be responsible for ensuring that all documentation for each case is available and each disciplinary infraction is entered in the automated system within time frames as outlined in policy as it relates to informal and administrative resolution cases as well as disciplinary hearings.

10.1 The Recorder will be responsible for the following:

- Prepare SCDC Form 19-69 with the disciplinary offense code, offense and description/definition;
- Ensure that SCDC Form 19-69 will be served to the inmate at least 48 hours prior to the hearing;
- Prepare a docket for cases to be heard by the Hearing Officer;
- Notify accusers/witnesses of their need to be available for the hearing;
- Ensure all hearing recordings are accounted for and secured for future use;
- Maintain a disciplinary file on each case from the Hearing Officer and Major/Responsible Authority;
- Ensure all sanctions are entered into the automated system within two (2) working days;
- Distribute SCDC Forms 19-29A, 19-69 and 19-106 and supporting documents to Central Records, Institutional Records and when appropriate, Financial Accounting within fourteen (14) working days after the hearing is completed;
- Prepare and submit reports as required to the Hearing Officer and/or to the Division of Operations. The Recorders will check with Institutional Operations daily and/or Transfer Request Applications to ensure that disciplinary documents are transferred to the receiving institutions and the CRT is updated within a timely manner; and
- The Disciplinary Recorder will check the Automated Request To Staff Member/Request to Staff Member (ARTSM/RSTM) system on a daily basis to respond to Level 1 inmate requests related to the Inmate Disciplinary System. All inmate requests should be responded to within 45 calendar days OR earlier if the inmate requests employee witnesses or documentary evidence for disciplinary hearings.
- Track inmates in Crisis Intervention Status and communicate with MHP to determine the inmate's ability to participate in a disciplinary hearing.

11. RECORDING:

11.1 All disciplinary hearings will be recorded. The recording will not be turned off at any time during the taking of evidence, regardless of the Hearing Officer's opinion concerning the relevancy of the testimony. However, if an inmate becomes assaultive or disruptive, the Hearing Officer may stop the recording to regain security and control of the inmate. When the recording is started again, the Hearing Officer will state the reasons for the interruption and continue the hearing. The inmate will be excused from the hearing room during the Hearing Officer's deliberation (sanctioning process).

11.2 The recording will be maintained after the hearing according to the Agency's Retention Schedule.

11.3 The Hearing Officer will be responsible for ensuring that all hearings are downloaded to the appropriate shared folder on the automated system within one working day after completion of the hearing. These digital recordings will be stored according to the Agency's Retention Schedule.

12. RESTRICTIONS ON PERSONNEL PARTICIPATING IN THE HEARING: Neither the Hearing Officer nor the Counsel Substitute may be:

- An employee who has filed the charges;
- An employee who ordered the filing of the charges;
- An employee who participated in any incident that led to the charges in question;
- An employee who participated in investigation of the charges; or
- An employee who made the decision to process the report through a disciplinary hearing.

13. PRESENCE OF INMATE AT DISCIPLINARY HEARING:

13.1 Inmates charged with disciplinary offenses will be present at their disciplinary hearings unless s/he has waived the right to be present or if the DHO determines that his/her behavior prior to, or during the hearing justifies their exclusion. If an inmate refuses to appear at the hearing or fails to appear at the notified time, or is unavailable (i.e., when an inmate has escaped or for a protracted court appearance, etc.), the hearing may be conducted in the inmate's absence. See paragraph 7.2 for additional information.

13.2 Inmates may hear all evidence presented at the hearing, unless hearing the evidence will jeopardize the life or safety of persons or the security and order of the institution.

13.3 The Hearing Officer must provide written reasons in the record for the accused inmate's absence during any portion of the hearing. If security considerations require that the inmate be removed from the hearing for the presentation of any evidence or questioning of any witness, the inmate's Counsel Substitute will be permitted to remain and to act in the inmate's behalf. NOTE: Must be noted on SCDC Form 19-69 and on the hearing recording. (4-4241)

13.4 Inmate will be physically restrained during hearing.

13.5 If an inmate with a pending disciplinary is transferred to Gilliam Psychiatric Hospital, the Department of Mental Health, an SCDC Infirmary, or any other health care facility outside the control of the Agency, or for a protracted court appearances, the 9/21 day time limit for holding the hearing will be suspended until the inmate is returned to his/her institution. When an inmate is placed on crisis intervention, the 9/21 day

time limit may be suspended, depending upon the assessment of the mental health professional. If the mental health professional determines that the inmate can understand and/or participate in the disciplinary process, the disciplinary hearing can proceed while the inmate is in crisis intervention status. The suspended period of time will be noted on SCDC Form 19-69 by the Hearing Officer or on SCDC Form 19-106 by the Major/Responsible Authority.

13.6 If a Hearing Officer determines that an inmate is behaving irrationally at the hearing, and believes he/she is unable to understand the significance of the disciplinary proceeding, the Hearing Officer will refer the inmate for assessment by the appropriate mental health staff. The hearing will be rescheduled once the mental health staff has documented that the inmate is lucid enough to understand the disciplinary proceeding. The 9/21 day time limit for holding the hearing will be suspended during this period. NOTE: Must be noted on SCDC Form 19-69 and on the recording or on SCDC Form 19-106 by the Major/Responsible Authority.

13.7 For inmates who are outside the physical custody of SCDC when an incident occurs (e.g., designated facility, post conviction relief, community hospital, etc.), the date of the discovery will be the date and time of return to an SCDC institution or the date and time when the appropriate employee learns of the incident, whichever is later.

13.8 An inmate who refuses to attend a hearing without properly waiving his/her appearance automatically waives the right to counsel substitute, the presence of accuser, and witness(es). If an inmate with a mental health issue refuses to sign the SCDC Form 19-69 or refuses to attend the DHO hearing, the inmate will be represented by a Counsel Substitute who can request the presence of the inmate's accuser and/or witnesses.

14. PRESENTATION OF EVIDENCE AT THE HEARING:

14.1 At the start of the hearing, the Hearing Officer will advise the inmate of the charges against him/her and will advise the inmate to enter a plea to each charge. If one or more of the charges involved the possession of contraband, the item(s) of contraband, a sample of the contraband, or a picture of the item should be produced at the hearing. Also, if the contraband involves tobacco or a controlled substance, i.e., illegal drugs such as marijuana or alcohol, the Hearing Officer must have available a copy of SCDC Form 19-79, "Controlled Substance Testing and Disposition Form," that establishes the exact type of illegal drug found in the possession of the inmate.

14.2 The accused inmate, or the inmate's Counsel Substitute, may make a statement on the inmate's behalf. The accused inmate, or the inmate's Counsel Substitute, may present documentary evidence.

14.3 The inmate may call witnesses unless the Hearing Officer decides that the testimony of such witnesses is repetitive (that is, will simply repeat the testimony of other witnesses), is not relevant to the case, or is likely to jeopardize the life or safety of persons or the security and order of the institution. If witnesses are denied by the Hearing Officer, the Hearing Officer must write his/her reasons for this denial on the SCDC Form 19-69, in the space provided. If an employee has been called as a witness and has information that is

relevant to the case, then he/she is obligated to provide said information.

14.4 The inmate must request the accuser's(s) presence prior to the hearing utilizing SCDC Form 19-69. Inmates may request witnesses for their hearing. Inmates will be required to use SCDC Form 19-11, "Request to Staff Member" or Inmate Kiosk System, listing the names of all the witnesses they wish to be made available at their hearing. The form must be addressed to the inmate's Counsel Substitute or the Hearing Officer if no Counsel Substitute has been assigned and must be received no later than 24 hours prior to the hearing.

14.5 The Counsel Substitute, or inmate, if no counsel substitute is appointed, may question all witnesses who appear at the hearing. The Hearing Officer will ask the inmate, or the inmate's Counsel Substitute, whether there are any questions for the witnesses. The questioning of the accusing employee or other witnesses will be conducted by the Counsel Substitute or Hearing Officer, if no Counsel Substitute is appointed. Written statements from witnesses other than the accusing employee may be presented as evidence when the witnesses are unable to attend the hearing. Any witness, including the accusing employee, who is unable to attend the hearing may be interviewed by a speaker telephone during the hearing and the answers of the witness must be recorded. The unavailability of the accusing employee must be limited to those occasions when circumstances (i.e. employee is on inmate assault leave, medical emergency, military leave, etc.) arise at which time the approving supervisor indicated on SCDC Form 19-29A may be used as the accusing official.

14.6 In circumstances where an inmate is an adversarial witness, the inmate who is charged may be excluded from hearing the testimony of the witness. In such cases, the charged inmate will be required to give a list of questions s/he wants asked of the witness to his/her Counsel Substitute. If no Counsel Substitute has been assigned, then the inmate will be required to provide a list of questions to the Hearing Officer who will ask the questions for the accused.

14.7 The failure of the accused inmate to present non-frivolous evidence to contradict the staff member's report will permit the report to be the only evidence used against the inmate. If, on the other hand, the accused inmate presents non-frivolous evidence which, if true, would contradict the facts alleged in the staff member's report, the Hearing Officer must take at least one of the following steps at the hearing prior to the final disposition of the case:

14.7.1 Question the charging employee;

14.7.2 Examine additional documentary evidence beyond investigation reports and/or written statements by the charging employee or witnesses); or

14.7.3 Question other witnesses.

15. INMATES WITH MENTAL HEALTH (MH) CLASSIFICATIONS:

15.1 Mental Health Disciplinary Treatment Team (MHDTT): The MHDTT was established for the review of inmates with a Mental Health Classification, of L1, L2, L3, LC, and/or MR, that are found guilty of a disciplinary offense or not guilty due to a mental illness. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

15.2 Once the ~~DHO hears the case~~ disciplinary case is heard and ~~if~~ the inmate is convicted, all MH classified inmates ~~falls into any one of the three categories below~~, with a Mental Health Classification of L1, L2, L3, LC, and/or MR will have their case reviewed by the MHDTT, consisting of the Mental Health Professional along with the MH Regional Manager, Warden, Associate Warden and/or Major will process the nature of the offense and determine a proper resolution for the offender as it relates to sanctions versus treatment. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

15.3 For the disposition of ~~GBNA~~ NGMI and ~~GWMC~~ GMI, sanctions and/or treatment plans may be imposed by the MHDTT. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

- ~~Guilty but not accountable (GBNA)~~ Not Guilty Due To Mental Illness (NGMI): The offender has a mental illness which likely contributed to an inability to control his/her behavior. This inmate may not receive sanctions or may receive modified sanctions by the DHO. The inmate may receive sanctions by the MHDTT if appropriate.
- ~~Guilty with mitigating circumstances (GWMC)~~ And Mentally Ill (GMI): The offender suffers from a mental illness which may have contributed to behaviors due to the offender lacking the capacity to understand the act committed or the inability to control impulsive behaviors). This inmate may receive modified sanctions from the MHDTT.
- Guilty: The inmate has a mental illness but the mental illness did not contribute to the alleged rule infraction. The DHO can impose sanctions if the inmate is found guilty. This inmates conviction will be forwarded to the MHDTT for review. (NOTE) If the MHDTT recommend to modify the goodtime sanction imposed by the DHO, this request must be approved by the Division Director of Mental Health/designee, and the Deputy Director of Operations/designee.

15.4 For the disposition of guilty, although sanctions will be imposed by the DHO, the MHDTT will review the sanctions and make modifications as needed.

- Guilty: Although classified as Mentally Ill, was able to understand the nature and quality of the act committed This inmate will be subject to any sanctions imposed by the DHO at the conclusion of their hearing in accordance with SCDC Policy OP 22.14, "Inmate Disciplinary System."

15.5 When an inmate is found ~~GBNA~~ NGMI, ~~GWMC~~ GMI, or guilty, the MHDTT will convene and determine an appropriate intervention and treatment plan. If this team cannot agree on the appropriate disciplinary action, the impasse will be brought to the Division of Operations and the Director of Behavioral/Mental Health & Substance Abuse Services to arrive at the most appropriate disciplinary action. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

16. STANDARD OF GUILT:

16.1 The Hearing Officer will then decide the inmate's guilt or innocence with respect to each charge on the SCDC Form 19-69, based on a preponderance of the credible evidence; in other words, the Hearing Officer must review all of the evidence presented during the hearing and, from the evidence that was submitted,

must decide whether it is more likely that the inmate is guilty or not guilty.

16.2 Sentencing Guidelines: If the inmate is found guilty, the Hearing Officer will determine the sanctions to be imposed for the disciplinary offense. When sanctioning an inmate, the Hearing Officer will take into consideration:

- The inmate's prior conduct and the period of time since the inmate's last disciplinary offense;
- Nature and seriousness of the offense;
- Extent of injury to persons or damage/destruction to property (if applicable);
- Penalties given to other inmates for the same or similar disciplinary offenses;
- Specific program and security needs of the inmate.

The sanctions will be proportionate to the offense committed, and the Hearing Officer will be responsible for justifying any disciplinary actions imposed.

16.3 If an inmate is charged with multiple disciplinary offenses, the inmate cannot be sanctioned separately for each disciplinary offense unless they are totally separate and distinct disciplinary offenses. If the disciplinary offenses are separate and distinct, then the inmate may be sanctioned for each offense.

16.4 Inmates released from the Department of Corrections to a community supervised program, i.e., parole, probation, etc., and returned to the Agency within three (3) years of their release can have their disciplinary history used in determining appropriate sanctions if they commit an Agency rules disciplinary offense. If an inmate completed his/her sentence (maxed out), his/her disciplinary sanctions under the maxed out sentence can not be used in determining sanctions under a new commitment.

16.5 Inmates who had disciplinary sanctions imposed prior to release from SCDC on probation, parole, supervised furlough, or any other supervision under control of the SCDPPPS, and who return to SCDC before the "day for day" completion date of the sanctions, will have the sanctions remain in place until the original completion dates expire. Once the inmate is assigned to an institution from R&E, the resumption of Disciplinary Detention time will be at the discretion of the receiving Warden.

17. PENALTIES IMPOSED BY HEARING OFFICER: Penalties for disciplinary offenses are concurrent. More than one type of sanction may be imposed for a disciplinary offense. (NOTE: All privilege restrictions imposed by the Disciplinary process will not exceed a cumulative cap of 360 days from the last disciplinary sanction imposed. For clarity, a series of disciplinary hearings/convictions over an extended period of time cannot result in an inmate having more than 360 days of privilege restrictions from the last disciplinary sanction imposed.(Changes in BLUE, amended by Change 4, dated August 26, 2016.)

17.1 Disciplinary Detention is served in an institutional Restrictive Housing Unit (RHU) and may be imposed in the following amounts:

Disciplinary Offense Level	
1	0 - 60Days
2	0 - 45 Days

3	0 - 30 Days
4	0 - 15 Days
5	0 - 15 Days

Note: Inmates who are placed in Disciplinary Detention will be managed pursuant to SCDC Policy OP-22.38, "Restrictive Housing Unit (RHU)." Inmates who are subsequently re-classified and placed in Security Detention will complete their Disciplinary Detention time prior to re-classification into Security Detention.

17.2 Loss of Accrued Good Time may be imposed in the following amounts:

Disciplinary Offense Level	
1	No limit on loss of good time - All good time may be taken.
2	0 - 60 Days
3	0 - 30 Days
4	0 - 20 Days
5	0 Days

Note: A finding of guilt as a result of a disciplinary hearing will result in the inmate's failure to earn good time for the month in which the disciplinary offense occurred and may also result in the loss of good time as shown in the above chart.

17.3 Counsel and Reprimand.

17.4 Extra duty not to exceed 40 hours.

17.5 Loss of privileges (Canteen, Television, Radio, Visitation, Telephone, Personal Property, Employment in Prison Industries, or Other Privileges/Leisure Activities):

Disciplinary Offense Level	Number of Days of Privileges Loss
1	No privileges during Term of Disciplinary Detention and additional restrictions from 90 - 180days after Disciplinary Detention.
2	No privileges during Term of Disciplinary Detention and additional restrictions from 45 to 180 days after Disciplinary Detention.

3	0 - 30 Days No privileges during term of Disciplinary Detention
4	0 - 30 Days No privileges during term of Disciplinary Detention
5	0 - 30 Days No privileges during term of Disciplinary Detention

(NOTE: Privileges can be reinstated by the Warden/Designee prior to the expiration of the sanctions if an inmate's behavior/adjustment warrants this concession. Only two (2) privilege restrictions can be imposed for any Level 3, 4 or 5 disciplinary offense conviction).

17.6 Restitution.

17.6.1 Medical Costs for Self-Inflicted Injuries or Injuries to Others: For self-inflicted injuries or injuries to others, the inmate who caused the injuries will be charged restitution of \$50.00 for services provided by SCDC Medical, as well as up to ten (10) co-payments incurred by the injured inmate as a result of the incident. If the injured inmate required outside treatment, the inmate who caused the injury will be required to pay for all extra costs charged to SCDC to include, but not limited to, EMS (or Medivac), emergency room, physician, all outpatient services, and \$50.00 for security/transportation. These costs will be handled according to Agency Policy/Procedure ADM-15.01, "Repayment of Costs by Inmates." The restitution requirements are mandatory upon conviction unless deemed not appropriate by the DHO. NOTE: Restitution will not be charged if inmate was found ~~GBN~~ANGMI.(Changes in BLUE, amended by Change 4, dated August 26, 2016.)

17.6.2 If the incident is resolved by Informal Resolution or Administrative Resolution, the Major/Responsible Authority will determine the financial responsibility of the inmate(s) and will provide the amount of restitution in the appropriate block of SCDC Form 19-106, "Inmate Disciplinary System Informal/Administrative Resolution."

17.6.3 If the incident is resolved by a Disciplinary Hearing, the Hearing Officer will determine the financial responsibility of the inmate(s) and will provide the amount of restitution using information provided by the Major/Responsible Authority, (on SCDC Form 19-106 or SCDC Form 19-69), of the fees incurred by the inmate. Under no circumstances will the DHO arbitrarily impose money restitution.

17.6.4 If an inmate has been convicted and sanctioned by the DHO at a disciplinary hearing and additional restitution for the same disciplinary conviction is warranted, the imposition of the additional restitution will be conducted at a later time through an Informal Resolution Hearing by the Major/Responsible Authority. This entry will be documented in the narrative of the original case and on SCDC Form 19-106. This hearing is to officially notify the inmate of additional restitution, not a hearing to determine guilt or innocence.

17.7 Other Restrictions/Sanctions: The Disciplinary Hearing Officer may also impose any of the restrictions/sanctions that are permitted under any other parts of the disciplinary process.

17.8 Disciplinary Violations/Job Assignments: Inmates who may have a disciplinary violation/conviction dismissed, a grievance appeal upheld, and/or a disciplinary conviction overturned via an appeal to the Administrative law Court are not entitled to return to a job assignment, if removed, without approval of the Warden or affected Division Director. This requirement will include, but not be limited to prison industry, work release, and contract labor crews. (NOTE: For designated facility inmates, refer to Agency Policy/Procedure OP-21.05, "Designated Facility Inmate Transfers.")

18 . HEARING RECORD:

18.1 SCDC Form 19-69 will be used to provide a written record of the hearing. The record will include the following information:

18.1.1 Whether the accused inmate was excluded from the hearing during the taking of evidence and, if so, the reasons for the exclusion.

18.1.2 Whether any requested witnesses were excluded and, if so, the reasons for the exclusion.

18.1.3 Whether any documentary evidence was excluded and, if so, the reasons for the exclusion.

18.1.4 Whether questioning of the inmate's accusers, if requested, was denied and, if so, the reasons for the denial.

18.1.5 If found guilty, the evidence presented and considered, and the reasons for determination of guilt.

18.1.6 If found guilty, the penalty imposed, and the specific factual reasons for the particular penalty chosen by the Hearing Officer. PHD time will be awarded towards the satisfaction of any DD time imposed unless the inmate received disciplinary charges subsequent to his/her placement in PHD.

18.1.7 If the inmate has a mental health issue, the results of the disciplinary hearing will be reviewed by the Mental Health Disciplinary Treatment Team to determine if the sanctions were appropriate.

18.2 At the conclusion of the hearing, the inmate will be given a copy of the written record of the hearing using SCDC Form 19-69. If the inmate was not present at the hearing, the Hearing Officer will notify the inmate if his/her whereabouts are known, of the hearing results and right to appeal the finding of guilt and/or penalty imposed by completing SCDC Form 10-5, "Inmate Grievance Form." The inmate will also be informed, that if he/she wishes to listen to the disciplinary hearing, they must submit a SCDC Form 19-11, "Request To Staff," or through the automated Request to Staff Member System, within three (3) days of being notified of their conviction. A copy of SCDC Form 19-69 will be provided to the inmate. Upon the review and approval of the Warden, the SCDC Form 19-69 will be placed in the inmate's Institutional and Central Record. An additional copy will be maintained in the Hearing Officer's files. The Recorder will forward SCDC Form 19-69 to the Warden for his/her review.

18.3 Additionally, if the incident occurred at another institution, the Warden at the institution currently housing the inmate will review and sign the SCDC Form 19-69. Once signed, a courtesy copy will be sent to the Warden of the institution where the offense occurred.

19. APPEALS:

19.1 At the conclusion of the hearing, the Hearing Officer will inform the inmate of his/her right to appeal the decision of the Hearing Officer with respect to guilt or to the penalty imposed by using the inmate grievance procedure. If the inmate requests, a SCDC Form 10-5, "Step I Grievance Form," it will be provided to the inmate, as well as a SCDC Form 19-11, "Request To Staff," or through the automated Request to Staff Member System, to request to listen to his/her recording by the Hearing Officer (see SCDC Policy/Procedure GA-01.12, "Inmate Grievance System"). (NOTE: Inmates may request the assistance of the Institutional Inmate Grievance Coordinator to assist them in completing their grievance form if they are unable to read or write, mental disability, or have a language barrier.)

19.2 Inmates may appeal the decision of the Hearing Officer. Appeals will be processed as described in SCDC Policy GA-01.12, "Inmate Grievance System."

19.3 The following factors must be considered when reviewing an appeal:

- Whether the Hearing Officer acted in substantial compliance with policies/procedures.
- Whether the decision of the Hearing Officer was based on any evidence.
- Whether, under the circumstances, the sentence imposed was proportionate to the disciplinary offense.

20. WARDEN'S REVIEW: Upon receipt of SCDC Form 19-69, when the inmate is found guilty, the Warden or his/her designee at the institution where the inmate is housed may approve hearing results, ~~overturn a guilty finding~~, or reduce the Disciplinary Detention (DD) sanction of the Hearing Officer. The Warden will document this information on SCDC Form 19-69 in the space provided. If the Warden ~~overturns or~~ reduces the DD sanction, s/he will be responsible for providing the inmate with written notice of the ~~overturned or~~ reduced disposition. Copies of both SCDC Form 19-69 and the written notice provided to the inmate by the Warden will be placed in the inmate's Institutional Record and Central Record. An additional copy will be maintained in the Hearing Officer's files. Upon completion, the Warden's Review may not be modified without approval by the Division of Operations. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

20.1 Disciplinary data entered into the OMS at the conclusion of a disciplinary hearing or after the Warden's review will not be arbitrarily modified. Any need for modification must have the approval of the Division of Operations.

20.2 Waiver of Disciplinary Detention (DD) Time: Subsequent to the Warden's signing of the 19-69 form, he/she may need to waive the balance of an inmate's DD time in order to create bed space in RHU. The decision to "waive" the duration of an inmate's DD time is the Warden's prerogative, but it does not negate the DHO's DD sanction during their review.

20.3 Although an inmate's DD time can be waived, the DD time entry on the restriction screen will remain as is. Also, other sanctions such as canteen, phone, visitation privileges are consecutive to the DD time

received, and will not be affected by the Warden's waiver of DD time.

20.4 If a Warden waives DD time, and the inmate is subsequently transferred to another institution before the completion of the DD time, the gaining Warden may place the inmate in RHU to complete all or part of the remaining DD time to be served.

21. DISCIPLINARY CHARGES FOR INMATES IN RESTRICTIVE HOUSING UNITS AND GPH:

Inmates housed in RHU and GPH, who habitually commit Level 3, 4 or 5 disciplinary offenses may have the incidents disposed of by the Major/Responsible Authority utilizing SCDC Form 19-29A. The infraction will be entered into the Offender Management System DISC screen using Type Action "03" which will show as, "Closed-Other Action Taken/Informally Resolved." All Level 1 or 2 disciplinary offenses will be disposed of formally at the discretion of the DHO. (NOTE: These Closed/Informally Resolved Cases will remain a part of the inmate's automated disciplinary history. The Institutional Classification Committee will consider these Closed/Informally Resolved charges to assess the inmate's behavior and determine the inmate's Security Detention level, readiness for release from Security Detention and/or transfer to the RHU.)

22. CRIMINAL CHARGES FOR INMATES:

Cases involving inmates who have committed a criminal act will be immediately reported to the Warden or designee for transmission to an Investigator from the Office of Inspector General in accordance with SCDC Policy GA-05.01, "Investigations."

23. INMATE ACCESS TO HEARING RECORDINGS:

23.1 The inmate will have access to listen to (but not possession of) the recording of his/her disciplinary hearing to assist in preparing an appeal. The inmate will not have access to any portion of the recording where s/he was excluded from the hearing. If, after the inmate has been transferred to a new institution, the inmate then requests access to the recording of the hearing, the recording will be forwarded to the Major where the inmate is currently housed. The Major will task one of their staff members to coordinate the opportunity for the inmate to hear the recording.

23.2 Inmates desiring to listen to a copy of their hearing must submit a SCDC Form 19-11, "Request to Staff Member," or through the automated Request to Staff Member System within three (3) days of their conviction, informing the Major. The Major will task one of their staff members to coordinate the opportunity for the inmate to hear the recording. This staff member will be responsible for requesting the recording from the Hearing Officer/Recorder. The recording will be given to the assigned staff member who will be responsible for advising the inmate when it has been received and for scheduling a time for the inmate to review that portion of the recording for the respective inmate's hearing. The recording will be played for the inmate by, and in the presence of, the assigned staff member within ten (10) days of receiving the request. The Institutional Grievance Coordinator will be notified that the inmate has requested to hear their disciplinary hearing recording.

24. REHEARING:

24.1 Where exceptional circumstances are found to exist, the Division of Operations may order that a disciplinary case be reheard. This may be ordered if it is determined a disciplinary charge was dismissed, but compelling reasons exist for proceeding again with a rehearing of the disciplinary disciplinary offense. Compelling reasons may include, but are not limited to, situations in which evidence concerning a disciplinary offense is discovered after the disciplinary offense hearing has been conducted. In such cases, the Division of Operations will indicate in writing the compelling reason(s) that require a rehearing of the disciplinary disciplinary offense. A rehearing may not be ordered for which an inmate did not receive timely notice of charges or an initial disciplinary hearing in a timely manner unless authorized in writing by the Division of Operations. (NOTE: A request for a disciplinary re-hearing will include written justification by the Warden to the Division of Operations.)

24.2 Step 1 Grievance: A Warden can request, through the Division of Operations, that a hearing be reheard at their level if the reasons noted in 24.1 are applicable.

24.3 Step 2 Grievance: The Division of Operations can order that a hearing be reheard if the reasons noted in 24.1 are applicable or if directed by the Administrative Law Court (ALC).

24.4 Time Limits: A rehearing must occur within 21 calendar days from the date that the rehearing is ordered and signed by the Division of Operations. If a rehearing is ordered as a result of the inmate's appeal to the ALC, and the ALC specifies a time frame for the rehearing other than the established 21 days, the rehearing will be held in accordance with the ALC Order. If no time limit is specified in the ALC Order, then the rehearing will be held within 21 working days of the signed ALC Order.

24.5 Evidence: Any evidence presented at the initial hearing may be presented at the rehearing; however, if the disciplinary conviction was overturned due to insufficient evidence, additional evidence must be presented and considered at the rehearing in order to find the inmate guilty.

24.6 Penalties:

24.6.1 Sanctions imposed at a rehearing involving loss of good time will be made effective from the date of the disciplinary infraction.

24.6.2 Sanctions imposed as a result of the initial hearing may again be assessed; however, the inmate will be given credit for penalties already served.

25. RECORD KEEPING:

25.1 In cases where an inmate has been found guilty, all written disciplinary records will be maintained for a period of five (5) years. (NOTE: Recordings will be maintained according to the Agency's Retention Schedule.)

25.2 If an inmate is found guilty, SCDC Forms 19-29A and SCDC Form 19-69 will be placed in the inmate's Institutional Record. If multiple charges have been made against an inmate, then only those charges for which the inmate has been found guilty will be maintained. Charges for which the inmate has been found not guilty included on the same reports will be marked out by the Hearing Officer. NOTE: This does not mean that the Agency cannot utilize such records for purposes of maintaining or collecting statistical or historical data.)

25.3 In cases where an inmate's disciplinary conviction(s) have been overturned as a result of an appeal (i.e., Inmate Grievance System, Administrative Law Court etc.), SCDC Forms 19-29A and SCDC Form 19-69 will remain in the inmate's institutional and central records. Documentation approving the dismissal will be placed in the inmate's institutional and/or central records.

26. ADDITIONAL INFORMATION ABOUT SANCTIONS:

26.1 Cell or Cube Restriction: An inmate may be placed in cell or cube restriction for the following lengths of time:

- For the remainder of the shift on which the restriction was imposed;
- For up to 24 hours, as a result of the employee's immediate corrective action with the concurrence of the Supervisor;
- For up to seventy two hours as a result of the supervisor's immediate corrective action;
- For a maximum of 10 days as a result of Informal Resolution;
- For a maximum of 10 days for Administrative Resolution;
- For a maximum of 60 days for a Disciplinary Hearing.

26.2 When an inmate is placed in cell or cube restriction, the following will apply:

26.2.1 Activities: The inmate is not allowed to leave his/her cell or cube except for medical reasons, meals, showers/hygiene, law library visits (during the inmate's non-work hours only), work, educational or vocational school/training, compulsory program activities, religious services one [1] hour of worship services weekly), and legal visits. The inmate will not be authorized visitation if the offense involved any visitation violations.

26.2.2 Exercise: The inmate will lose out-of-cell/cube exercise privileges for the period of time that s/he is placed on cell or cube restriction status.

26.2.3 Extra Duty: If an inmate is given extra duty as a result of an informal or administrative resolution or pursuant to a finding of guilt at a disciplinary hearing, and the inmate refuses to perform the extra duty, s/he may be charged for the refusal. If the inmate is found guilty and given the penalty of loss of good time, s/he may still be required to perform the extra duty.

26.3 Restitution: Refer to SCDC Policy ADM-15.01, "Repayment of Costs by Inmates," for procedures to be followed to assess restitution pursuant to state statutes.

26.4 Loss of Privileges: Inmates may not be denied purchase or possession of legal correspondence materials, incoming/outgoing mail, legal visits, legal phone calls upon verification by staff, educational materials needed for an educational program in which the inmate is enrolled, clothing necessities pursuant to SCDC Policy OP-22.03, "Authorized Inmate Property and Disposition of Unauthorized Property," or hygiene supplies if not issued.

•Canteen Purchases: Access to canteen items may be suspended, except legal and correspondence materials, and hygiene items (e.g., tooth brushes, toothpaste/powder, soap, etc.) if these items are not issued. Restrictions may be documented via the automated disciplinary system. If an inmate loses his/her canteen privileges, s/he will also lose the privilege of purchasing Service-Fund Raising Project Items.

•Televisions Purchased From The SCDC Canteen Beginning November 2007: The following sanctions apply to inmates who have purchased a television:

- Conviction of a level 1 disciplinary offense-loss of television set (must be mailed out)

- Conviction of a level 2 disciplinary offense-loss of television set (must be mailed out)

** - Conviction of a level 3 disciplinary offense-loss of television privilege for 20 days

** - Conviction of a level 4 disciplinary offense-loss of television privilege for 20 days

** - Conviction of a level 5 disciplinary offense-loss of television privilege for 20 days

** - Any combination of three (3) level 3, 4, or 5 disciplinary offenses-loss of television set (must be mailed out)

NOTE: Inmates are ineligible to purchase a television if he/she has pending disciplinary charges. If an inmate has initiated the purchase of a television and receives a disciplinary charge prior to taking possession of the television, the transaction will be voided. If an inmate loses his/her television due to disciplinary issues, he/she must maintain a clear disciplinary record for one(1) year before being eligible to purchase another television.

•Visitation: Certain disciplinary offenses may also carry a suspension of visitation privileges by the Warden pursuant to SCDC Policy OP.22.09, "Inmate Visitation." In such cases, the Warden will notify this inmate of the visitation suspension using the procedures outlined in OP-22.09.

- Telephone: (NOTE: Inmates may not be denied use of a telephone to contact their attorney or legal representative; or to make a star 22 call; however, such calls must be verified by staff.) Restrictions on telephone access may be documented via the automated disciplinary system.

- Personal Property: Except legal and correspondence materials (to include incoming and outgoing correspondence); hygiene items (tooth brushes, toothpaste/powder, and soap), if these items are not issued; religious literature; clothing necessities (as per SCDC Policy OP-22.03, "Authorized Inmate Property and Disposition of Unauthorized Property") and educational materials needed for academic programs in which the inmate is enrolled. SCDC Form 19-71, "Loss of Privileges - Personal Property," will be completed by the Hearing Officer in these cases.

- Other Privileges/Leisure Activities: (e.g., day room activities, handicrafts, etc.) Anything that is determined to be a privilege as opposed to a basic necessity may be restricted, suspended, or limited by proper authority as a sanction.

- Grandfathered Items: If an inmate is convicted of a Level 1 offense, the inmate will be given 30 days to either mail all their grandfathered property items to a family member or friend, or the items will be disposed of pursuant to SCDC policies/procedures related to contraband control.

27. ESCAPES: Escapes from correctional facilities, labor crew work sites, or work release sites by inmates are a special area of concern for the Agency. The Agency's primary mission is to protect the public, therefore, the disciplinary sanctions for escapes must be carefully managed. For that reason, all escapes must be referred to a disciplinary hearing and the following guidelines must be used in determining sanctions for inmates who are convicted of an escape.

27.1 901 Class I: Any escape, attempted escape, or aiding/abetting escape from a Level 2 or 3 institution or from medium or maximum custody at a local detention center. Also includes escapes from a Level 1 institution or minimum custody at a local detention center that involves any threat of violence, physical harm, or other aggravating circumstances; to include actual or constructive possession of tools or items which are intended to be used to facilitate an escape. Aggravating circumstances may also include any criminal behavior that occurs while the inmate is on escape status. Note: Should an inmate assigned to an outside detail, at any level institution, walk-off (with no aggravating circumstances), this should be classified as a Class II escape.

27.2 902 Class II: Any escape, attempted escape, or aiding/abetting escape from a Level 1 institution or minimum custody at a local detention center that does not involve any threat of violence, physical harm, or other aggravating circumstances.

Restitution For Class I or II Escapes: Costs may be deducted from an inmate's account to reimburse the state for the costs associated with searching for and apprehending an inmate when s/he escapes or attempts

to escape. See SCDC Policy ADM-15.01, "Repayment of Costs by Inmates," for additional information.

28. DEFINITIONS:

Cell or Cube Restriction generally refers to the confinement of an inmate in his/her cell or cube other than for attending work and/or educational or vocational training, other compulsory (mandatory) programs, showers, religious services, medical reasons, law library, meals, and legal visits.

Closed: When an infraction is disposed of through informal or some other means (Inmate in RHU that is a habitual offender and the action is non-assaultive in nature) within the disciplinary process. NOTE: A closed entry acknowledges a conviction of an offense, but ensures no good time is taken.

Common Area refers to the living areas that are equipped with day/TV rooms, bathrooms, and other areas where an inmate has no specific ownership or responsibility.

Continuance: When a case is moved to another hearing date within the appropriate timeframe. The reasons for a continuance include, but are not limited to : employee on medical, military inmate assault or some other type of leave; a need to review additional information relevant to the disposition of the case.

Convicted: When an inmate is/was found guilty, or pled guilty of the charged infraction.

Date of Discovery: The date of discovery shall be the date the employee learns of an incident that took place, the date the inmate and/or staff member returns to the institution or the date the investigative report is received from the Office of the Inspector General or the Major/Responsible Authority. For inmates who are outside the physical custody of SCDC when an incident occurs (e.g., designated facility, post-conviction relief, community hospital, etc.), the date of the discovery will be the date and time of return to an SCDC institution or the date and time when the appropriate employee learns of the incident, whichever is later.

Disciplinary Hearing refers to a formal proceeding conducted by a Hearing Officer to process serious rule violations.

Dismissed: When an inmate's charge was dropped due to technical reasons and/or procedural errors.

~~Guilty But Not Accountable~~Not Guilty Due To Mental Illness (NGMI): When a mentally ill inmate commits a disciplinary infraction and the mental health staff determines that the inmate was not accountable for his/her action(s), and the Hearing Officer finds the inmate guilty through a preponderance of the credible evidence presented, the inmate should be found ~~guilty, but not accountable~~not guilty due to mental illness. This case will be referred back to the Mental Health ~~authorities~~ Disciplinary Treatment Team for appropriate intervention.(Changes in BLUE, amended by Change 4, dated August 26, 2016.)

~~Guilty With Mitigating Circumstances~~ And Mentally Ill (GMI): The inmate suffers from a mental illness which may have contributed to behaviors. Due to the offender lacking the capacity to understand the act committed, the case will be referred back to the Mental Health authorities for appropriate intervention.

(Changes in BLUE, amended by Change 4, dated August 26, 2016.)

~~Lesser Included~~ Lower Level Offense refers to instances when it is impossible to commit a particular offense without, at the same time and by the same conduct, committing a less serious offense. The latter is a ~~lesser included~~ lower level offense (e.g., possession of contraband and possession of contraband for planning an escape) when the two charges involve the same items of contraband. (Changes in BLUE amended by Change 2, dated January 27, 2016.)

Major Disciplinary: Any Level 1 or 2 disciplinary offense; or any disciplinary case referred to the Disciplinary Hearing Officer for disposition.

Major/Responsible Authority refers to the Major, Associate Warden, Duty Warden, or Warden of an institution, or where there is no Major assigned, the Captain. In Level II/III Institutions, the Warden can designate a Captain to serve in this capacity with the written concurrence of the Division of Operations. Level I Institutions can be a Lieutenant and above.

Not Guilty: When an inmate is cleared of charged infraction in a formal disciplinary hearing through a preponderance of the credible evidence presented.

—
s/Bryan P. Stirling, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT.

APPENDIX A

Access to the automated Inmate Disciplinary System will be limited. The Division of Operations will determine and manage employee application usage. The Division of Resource and Information Management will provide employees with access to the automated Inmate Disciplinary System.

All Wardens will determine the employees responsible for managing the institutional disciplinary process as follows. The employees will have specific access to the automated system as it relates to their duty assignment.

Employee/Assignment	Authorized Number of Employees
Major/Responsibility Authority	No Limit
Recorder	Limit 2
Counsel Substitute	No Limit
Shift Supervisor	No Limit

NOTE: Other institutional employees will have inquiry access only to the inmate automated disciplinary system.

Agency employees in designated divisions will have approved access to the automated inmate disciplinary system.

Agency Hearing Officers will have limited access to the automated inmate disciplinary system.

SCDC DISCIPLINARY OFFENSES

1. RULES VIOLATION DEFINED: The following disciplinary offenses represent violations of the SCDC inmate rules. A violation of these rules may consist of any of the following:

- Engaging in the specified behavior;
- Attempting to engage in the specified behavior;
- Conspiring to engage in the specified behavior; or
- Aiding others in engaging, attempting to engage, or conspiring to engage in the specified behavior.

2. LIST OF DISCIPLINARY OFFENSES: The following is a list of the titles and code numbers of disciplinary offenses.

Level 1 Disciplinary Offenses

801 Assault and/or Battery of an SCDC Employee or other Government Employee, Contract Employee, Volunteer, or Member of the Public with Means/and/or Intent to Kill or Injure: The willful hitting, striking, or unauthorized touching of an SCDC employee or other government agency employee, contract employee, volunteer, or member of the public with or without a weapon or the throwing of any substance at or on an SCDC employee or other government agency employee or contract employee who is exercising legitimate authority over an inmate, when such hitting, striking, throwing, or unauthorized touching causes bodily injury.

802 Sexual Assault: Forcing another person, by violence or threats of violence, or any other form of coercion to perform a sexual act. (A sexual act is any intentional contact between the genitals of one inmate and the genitals, mouth, anus, or hands of another person.)

803 Riot: When an inmate, with two or more persons, intentionally participates in conduct that creates danger of damage or injury to property or persons and substantially obstructs the performance of unit operations or institutional operations.

804 Homicide: The killing of any person with/without malice, advance thought, either expressed or implied.

805 Hostage Taking: The act of any inmate acting alone or with others who by threats, coercion, intimidation, or physical force, takes, holds, or carries away any person as a hostage for any reason

whatsoever.

806 Any Act Defined as a Felony by the Laws of the State of South Carolina or the United States and not otherwise Defined in these Rules.(State Criminal Statute must be provided.)

808 Fighting With a Weapon: Any group of two or more inmates who engage in a physical altercation with any instrument used for the purpose of inflicting physical injury on any person.

811 Possession of a Weapon: The actual or constructive possession by an inmate of any instrument that could be used to inflict physical injury on any person.

857 Assault and/or Battery of an Inmate with Means and/or Intent to Kill or Injure: The willful hitting, striking, throwing of substances, or unauthorized touching of an inmate with or without a weapon by another inmate, when such hitting, striking, throwing, or unauthorized touching results in great bodily injury.

897 Possession of Security Equipment/Property: The unauthorized possession and or use of security equipment/property of SCDC or that of an outside source. Unauthorized items may include, but not be limited to, institutional security keys, restraints, chemical munitions, employee ID cards, crafted devices, i.e., hand cuff keys, institution keys, or dummy like objects, (for escape/attempt escape purposes),etc. This offense also includes the possession of any materials and/or drawings that could be used in the creation of institution keys.

898 The Possession of Any Communication Device: The possession, receipt, use, concealment, storage, purchase, sale or facilitation of cellular phones or other communications equipment and/or any components thereof. This includes, but is not limited to, MP3 players, I-pods, e-readers or any like devices.

901 Class I Escape: Any escape, attempted escape, or aiding/abetting escape from a Level 2 or 3 Institution or from medium or maximum custody at a local detention center. Also includes escape from a Level 1 Institution or minimum custody at a local detention center that involves any threat of violence, physical harm, or other aggravating circumstances. Aggravating circumstances may also include any criminal behavior that occurs while the inmate is on escape status.NOTE: Should an inmate assigned to an outside detail at any level institution, walk-off (with no aggravating circumstances), should be classified as a Class II escape.

902 Class II Escape: Any escape, attempted escape, or aiding, abetting escape from a Level 1 Institution or minimum custody at a local detention center that does not involve any threat of violence, physical harm, or aggravating circumstances.

903 The Trafficking, Use, and/or Possession of Narcotics, Marijuana, or Unauthorized Drugs, including prescription drugs, or Inhalants, Intoxicants and Synthetics.

It is a violation of this section for an inmate to:

~~The actual or constructive trafficking, use or possession of drugs of any description (except those prescribed by an authorized physician and within authorized amounts, expiration date, e.g. barbiturates, narcotics, medicines, marijuana and poisons, as well as all drug paraphernalia, such as needles, syringes, etc. Any inmate testing positive for any unauthorized drug, refusing to submit to a drug test, or failing to produce a specimen within three (3) hours, as specified in SCDC Policy GA-03.03, "Inmate Drug Testing/Screening Program." This rule violation encompasses the "hoarding" of prescribed medication by any inmate(s), or inmates who having accepted their medication, then failed to ingest the medication at the time they are issued it at the pill call. Any inmate acting under the influence of any inhalant other than one prescribed by an authorized physician which when inhaled, creates an altered state of physical or mental activity. Sight and smell identification may be used to identify any drug where no available scientific tests have been created and/or confirmed credible.~~

Actually or constructively traffic, use, or possess drugs or intoxicants of any type or description (except those prescribed by an authorized physician and within authorized amounts and expiration dates) such as but not limited to: barbiturates, narcotics, medicines, marijuana, poisons, inhalants and synthetic cannabinoids; as well as all drug paraphernalia, such as but not limited to: needles, syringes, pipes, rolling papers and straws. Officers may rely on their training and experience to identify any intoxicating substance or paraphernalia where no available scientific tests have been created and/or confirmed credible. Substances which cannot be identified by the officer through their training and experience will be considered contraband and subject to an 817 Possession of Contraband charge unless the inmate can prove by a preponderance of the evidence at the disciplinary hearing that the substance was either: (1) issued to the inmate officially; (2) purchased in the institutional canteen; (3) authorized by the Warden and/or Agency policy; or (4) issued to the inmate by SCDC. This rule violation encompasses the "hoarding" of authorized prescribed medication by any inmate(s), or inmates who having accepted their medication, then failed to ingest the medication at the time they are issued it at the pill call. Or;

Under, or feign (pretend) to be under, the influence of any intoxicant, other than one prescribed by an authorized physician, which creates an altered state of physical or mental activity. The observation and documentation by institutional staff of inmates exhibiting behavior such as paranoia, panic attacks, giddiness, agitation, hallucinations, psychosis, unexplained hypertension (high blood pressure), tachycardia (increased heart rate), vomiting, seizures, foaming at the mouth, blurred vision, total memory loss, inability to feel pain, suicidal thoughts, uncontrollable aggression or any other symptoms which through the staff members training and experience would lead them to reasonably believe the inmate is under the influence of a drug or intoxicant would be sufficient to justify this charge. A voluntary admission by an inmate that they are intoxicated, whether spontaneously uttered or as a result of questioning by institutional staff, can be considered in making this charge but is not, in itself, enough to justify the charge.

Test positive for any unauthorized drug or intoxicant, refuse to submit to a drug test, or fail to produce a specimen within three (3) hours, as specified in SCDC Policy GA-03.03, "Inmate Drug Testing/Screening Program." (Changes in BLUE amended by Change 3, dated February 16, 2016.)

904 Possession of Escape Tools and/or Paraphernalia: The actual or constructive possession of any tool, device, document, drawing, or any other item that could be used to plan or execute an escape from a correctional institution.

905 Creating and/or Assisting With A Social Networking Site: The facilitation, conspiracy, aiding, abetting in the creation or updating of an internet web site or social networking site. Photos of the inmate taken within an SCDC facility and/or of inmate in SCDC uniform may be used to support this charge.

Level 2 Disciplinary Offenses

807 Striking an SCDC Employee or other Government Employee, Contract Employee, Volunteer, or Member of the Public: The willful hitting, striking, spitting, or unauthorized touching of an SCDC employee or other government agency employee, contract employee, volunteer, or member of the public with or without a weapon or the throwing of any substance at or on an SCDC employee, other government agency employee, contract employee, or volunteer who is exercising legitimate authority over an inmate, when such hitting, striking, throwing, or unauthorized touching does not cause bodily injury.

809 Threatening to Inflict Harm on/Assaulting an Employee and/or Members of the Public: Communication, verbal or written, by an inmate to an individual, or any other person, that s/he intends to injure that person or commit a violent or unlawful act dangerous to human life, presently or in the future; or one who commits a physical act of a threatening nature, and the probable result of such threats or action is to place the individual in fear of bodily injury; or one who causes evacuation of a building; or one who creates serious disruption or alarm. Any unauthorized body contact of an employee or member of the public which creates serious alarm, but does not result in bodily injury.

810 Striking an Inmate With or Without a Weapon: The willful hitting, striking, throwing of any substance at, or unauthorized touching of one inmate by another inmate with or without a weapon, whether or not such hitting, striking, or unauthorized touching causes bodily injury.

812 Robbery with Force: The taking of property of another person in that person's presence with use of force and violence which places that person in fear of his/her safety by the use of such force, violence, or threats.

813 Throwing/Exposure of any Substance or Object on an SCDC Employee or other Government Employee, Contract Employee, or Volunteer: The throwing or exposure of any substance, to include bodily secretions, at or on an SCDC employee or other government agency employee, contract employee, or volunteer who is exercising legitimate authority over an inmate, whether or not such throwing causes bodily injury. This includes exposure of bodily secretions (fluids) through an inmate's outgoing correspondence.

814 Inciting/Creating a Disturbance: Any act or activity which results in a disruption of institutional operations or a breach of institution security. Any inmate who purposefully incites or urges a group of two or more other inmates to engage in a current or impending disturbance of institutional operations or gives

commands, directions, instructions, or signals to a group of two or more persons to cause, continue, or enlarge a disturbance. An inmate may be found guilty of this violation even where no disruption of institutional operations actually occurs as a direct or indirect result of his/her actions. A disturbance as used herein is an assemblage of three or more persons which creates grave danger or damage or injury to property or persons and/or substantially disrupts the normal functioning of the institution.

820 Damage, Loss, Destruction, or Defacing of Property Valued at 100.00 or more: The intentional or reckless damaging, destroying, or disfiguring property belonging to a government agency, a private citizen, an employee, or another inmate. Possession of damaged, destroyed, or disfigured property and the negligent loss of property also qualify as a violation of this offense. (NOTE: This does not include cases in which an inmate loses his/her ID Card or issued room key. In these cases, the inmate will be required to pay a replacement fee for such items and will not be processed pursuant to these procedures. See also, SCDC Policies OP-21.06, "Inmate Identification Cards," and OP-22.17, "Key Control," for information regarding the processing of replacement fees.) This charge must be forwarded to a Disciplinary Hearing.

822 Sexual Misconduct: (1) Engaging in consensual or non-consensual sexual acts or intimate physical contact of a sexual nature with other inmates; or soliciting sexual acts from other inmates, or engaging in any form of sexual harassment. Also, engaging in any non-consensual sex act with an employee, visitor, vendor, or volunteer, to include intimate physical contact or solicitation of sexual acts. This charge must be forwarded to a Disciplinary Hearing. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

832 Unauthorized Inmate Organization Activity or Participation in a Security Threat Group (STG) or STG Activity: Any participation of any inmate in any organization which has not been approved or any informal organization, association, or group of three (3) or more inmates that has a common name, and whose members or associates engage or have engaged in activities that include planning, organizing, threatening, soliciting, or committing unlawful acts of misconduct classified as serious threats or potential threats to the safety and security of the public, the Department, employees, visitors, and/or other inmates, or any other group that has been designated a Security Threat Group by the Agency Director. Possession of STG material is sufficient to warrant this charge.

854 Exhibitionism and Public Masturbation: (1) Engaging in acts of indecent and/or unnecessary exposure of genitals or other private body parts to a staff member or other person; or (2) engaging in acts of masturbation or any manual stimulation of one's exposed or unexposed genitals in a public setting, or in the view of a staff member or other person.

855 Smuggling and/or Conspiracy to Smuggle in Contraband: Any inmate found to have conspired, aided, or acted in collusion with any person, or acting alone with the intent of introducing any form of contraband into any SCDC facility. Conspiracy, aid, or collusion may be defined as using any form of communication or providing any type of assistance with/to any person where plans are made with the intent of introducing contraband. The physical possession/receipt of the contraband by the inmate is not needed to support this charge. An inmate can be charged with this offense if his/her approved visitor is caught bringing in contraband and it is reasonable to believe that the visitor's intent was to supply the inmate with the contraband.

858 The Use or Possession of Practice GED Cheat Sheet, the Official GED Test, Any other Standardized or Educational Test, or Standardized Educational Materials Not Authorized for Use by the Inmate: Possession of, attempt to use, or provide others with a cheat sheet and/or answers to the GED questions, or other educational materials with the intention to gain unfair advantage in securing a passing score on the Practice GED Test, the Official GED Test, or any educational test administered or overseen by the Palmetto Unified School District. (NOTE: Any inmate convicted of this offense will also be prohibited from taking the GED Test while incarcerated.)

861 Harassment and/or Intimidation: ADA Issues: The harassment, discrimination, retaliation, coercion, intimidation, threatening or abusing of any inmate, by any person, if that conduct is based in whole or in part on the victim's status as having a disability. This includes the revealing of any medical condition of an inmate by anyone with malice or ill will. Disability: a condition (such as an illness or an injury) that damages or limits a person's physical or mental abilities (e.g., blindness, deafness, loss of movement or ability to walk, being HIV Positive, hearing impairment, psychiatric condition, etc.)

895 Inmate ID Card Violations: The following are violations of this infraction:

- To have possession of another inmate's ID card;
- To give another inmate possession of your ID card, or another inmate's ID card;
- To give your ID card to anyone not authorized to have possession of your ID card;
- The forgery of ID cards;
- Any other actions or use of an ID card that is inconsistent with the ID card's purpose.

896 Unauthorized wearing, possession and/or providing Agency uniform(s): The wearing, possession and or providing of any Agency uniform is a serious offense as it relates to inmate identification, institutional order and security.

906 Possession of a Purchasing Instrument: The actual or constructive possession by an inmate of any item which may be used to buy, sell, or exchange any commodity/service from any individual, whether that commodity/service is authorized or unauthorized. This includes, but is not limited to, cash, green dot cards/numbers, pre-paid phone cards, personal or blank checks, money orders or postage stamps.

907 Attempted Escape or Breach of Restricted Area: If an inmate is found to have damaged property (i.e. windows, flooring, fencing, ventilation system, etc.) in an effort to facilitate access to restricted areas, or if an inmate is caught out of place in a restricted area and/or beyond general population areas/fencing, in an attempt to escape or for any other reason, they are to be charged with this offense. (Disciplinary Offense 907 added to OP-22.14, by Change 4, dated August 26, 2016.)

Level 3 Disciplinary Offenses

815 Evading a Security Device: The act of an inmate to obstruct, tamper with, or jam any opening, closing, or exiting of a cell door, food flap, locks, any restraint devices, and/or secured area(s).

816 Trafficking and Trading: The buying or selling or unauthorized exchange of any commodity from any individual within the institution, other than authorized purchases from the canteen (evidence may include an excessive inventory of marketable items).

817 Possession of Contraband: The possession of any unauthorized, altered or excessive property, including tobacco products, gambling paraphernalia, unauthorized publications and unauthorized clothing. The possession of tobacco in a quantity larger than 40 grams is enough to reasonably assume that the intent of the possession was for distribution to other inmates and can be heard as a major disciplinary. Unauthorized property is any item to include keys not assigned to the inmate by the Department or purchased by the inmate from the canteen.

818 Use of Obscene, Vulgar or Profane Language or Gestures: The act of any inmate who verbalizes or writes lewd or indecent notes or letters to another person, or makes gestures or actions that are discourteous or disrespectful in nature, when the person who receives verbal statements, notes, letters, gestures, or actions complains of such.

819 Stealing: Intentionally taking any property belonging to a government agency, a private citizen, the State, an employee, or another inmate.

821 Gambling and Loan Sharking: Any inmate who bets, lends, offers to lend, borrows or attempts to borrow anything of value from another person, or organizes the outcome of any event, including sporting contests. The possession of gambling paraphernalia may be sufficient evidence.

823 Fighting Without a Weapon: Any group of two or more inmates who engage in a physical altercation involving mutual combat and or horseplay.

824 Threatening to Inflict Harm, Physical or Otherwise/Assault, on Another Inmate: The communication, verbal or written, by an inmate to another inmate that s/he intends to injure or commit a violent act, dangerous to human life, presently or in the future; or commits a physical act of a threatening nature placing another inmate in fear of bodily injury, causing evacuation or serious disruption.

825 Refusing or Failing to Obey Orders: Noncompliance with a legitimate order from an SCDC employee or other government/contracted employee who is in a position of authority over the inmate. This includes resisting arrest or failure to follow written policy/procedure requirement (i.e., grooming standards, etc.). The act of any inmate whose actions interfere with or tends to interfere with anyone in pursuit of their assigned duties.

826 Refusing to Work: Refusing to begin or complete a work assignment without a legitimate reason, such as illness.

827 Refusing to Attend the Compulsory Mandatory) Program: The refusal of any inmate who scores below an eighth grade reading or math level to enroll/attend/participate in school and/or the refusal of any inmate

to attend or participate in any compulsory (mandatory) program.

828 Out of Place: The act of an inmate who without authority either fails to report to his/her appointed place of duty or assignment or any other place to which he/she was ordered; leaves his or her appointed place of duty or assignment; is found to be in an unauthorized area; or does not have specific approval to be in an unauthorized area of the institution or any area of the institution.

829 Failure to Work: Failure to complete a reasonable amount of an inmate's work assignment within a reasonable period of time, or sleeping on the job.

830 Mutiny: When two (2) or more inmates conspire and refuse, as a group, to work, move, return to their cells or cubes, and/or create a work stoppage or other similar activity.

831 Lying to an Employee or Knowingly Making False Statements: The intentional making of untrue statements by an inmate or any inmate who makes a false statement under oath, makes inconsistent statements which are false, or makes a false statement to or against an employee or anyone. The act of any inmate who gives an untrue statement deliberately or a false impression to any SCDC employee, contracted employee or to an employee of a government agency which has authority in supervising the inmate.

833 Abusive Treatment of an Animal, Including Carnal Relations With an Animal: Any physical maltreatment or improper misuse of an animal and/or engaging in sexual activities with an animal.

834 Any Act Defined as a Misdemeanor by the Laws of the State of South Carolina or the United States Not Otherwise Defined in these Rules: (State criminal statute must be provided)

835 Forgery or Possession of Any Forged Document: The act with intent to defraud or deceive another person by falsely making, completing, or altering any document; or knowingly issuing or possessing such an instrument.

836 Disrespect: The failure of any inmate to observe proper decorum or who willfully engages in action or make statements to a person which are discourteous in nature, which may or may not include the use of profanity.

837 Interfering with Count: Failure to stand for count, movement during count which may create confusion or distraction of any kind, or activity by any inmate which may disrupt concentration or the orderly counting of inmates.

838 Soliciting Improper Relationships: Assistance from an Employee or an Inmate to Violate an Agency Rule or an Employee Rule: The act of any inmate who willfully induces any person to do or agree to do any act in violation of his/her lawful duty or in violation of SCDC rules and regulations, or in violation of the lawful rules and regulations of a government agency which is exercising legitimate authority over an inmate. Assisting in the Corruption of or Entering into an Improper Relationship with an Employee: The act of any

inmate who willfully gives, offers or promises anything of value with the intent to influence any official act or action within the official responsibility of any employee; the act of any inmate who enters into an improper relationship with an employee. Soliciting Money or Gifts from a SCDC Employee or an Inmate, or from Another Person For the Benefit of an Inmate: Any inmate who tries to obtain, buy, or entice money or gifts from any SCDC employee or another person for his/her benefit.

853 The Unauthorized Use of an Inmate's Telephone Personal Identification Number (PIN). The unauthorized use of telephone personal identification number is a serious violation. Inmate are prohibited from sharing and using other inmate's telephone PINs.

856 Damage, Loss, Destruction, or Defacing of Property Valued at Less than \$100.00: The intentional or reckless damaging, destroying, or disfiguring property belonging to a government agency, a private citizen, an employee, or another inmate. Possession of damaged, destroyed, or disfigured property and the negligent loss of property also qualify as a violation of this offense. (NOTE: this does not include cases in which an inmate loses his/her ID card or issued room key. In these cases the inmate will be required to pay a replacement fee for such items and will not be processed pursuant to these procedures.) For further information regarding the processing of replacement fees, see SCDC Policies OP-21.06, "Inmate Identification Cards," and OP-22.17, "Key Control."

859 Disorderly Conduct: Any inmate who engages in any action which disrupts, or may lead to the disruption of the orderly operations of the institution.

860 (PREA) Lying to an Employee or Knowingly Making False Statements: The intentional making of untrue statements by any inmate who makes a false statement under oath, makes inconsistent statements which are false, or makes a false statement to or against an employee, inmate, or anyone that involves the commission of a sexual act by any employee or inmate on another employee. A good faith report of sexual abuse that cannot be substantiated is not justification to support this charge.

899 The Use, Possession, or Distilling and/or Brewing of any Alcoholic Beverage: Any inmate acting under the influence of alcohol or in possession of alcohol or alcoholic beverage or other brewed substance which, when ingested, creates altered states of physical or mental activity. Note: The first two infractions of 899 for any inmate may be resolved Informally or Administratively by the Major/Responsible Authority. The third or subsequent infractions of 899 by an inmate must be referred to a hearing officer. However, regardless of how many times the inmate has committed this infraction, any large quantities of alcohol, or possession of alcohol which is commercially produced, or behavior which endangers the security and good order of the institution should be referred for a disciplinary hearing and Hearing Officers will consider such evidence when determining the severity of the sanctions imposed (i.e. large quantities of alcohol, multiple disciplinary offenses, commercial alcohol, and endangering the security and good order of the institution, refusing to submit to alcohol testing, etc., will result in more severe sanctions). As always, the circumstances of the infraction and the inmate's disciplinary history should be taken into consideration. Questions should be addressed to the Division of Operations.

Level 4 Disciplinary Offenses

839 Mutilation: Physical injury to an inmate's body that is self-inflicted, allowing it to be inflicted by others with the inmate's permission, or assisting another inmate in mutilating himself/herself. NOTE: Any inmate who pierces or attempts to pierce any part of his/her body, or assists others in piercing or attempting to pierce any part of their body will be charged with this offense as the practice creates a health and safety risk.

840 Failing or Refusing to Respond to an Employee's Questions: The failure of any inmate to respond to any SCDC employee question even if it is felt that the question is unjust. It is not a defense that an inmate considers the question invalid.

841 Malingering: Pretending to be ill, or refusing to take their medication in order to avoid duty, work, school, to gain financial compensation, or undisclosed reasons involving secondary gain in order to manipulate the medical, mental health, security or other staff for the inmate's own benefit.

842 Use or Possession of Tattooing Paraphernalia: The actual or constructive possession by an inmate of a tattooing device or a tattoo magazine, which may be used for the purpose of tattooing.

843 Refusing Medical Treatment for a Communicable Disease: The failure or refusal of medical treatment by any inmate with a disease capable of being transmitted. NOTE: In these cases, inmates will be placed in medical isolation and will not be placed in PHD, Disciplinary Detention, or security detention status.

844 Interfering with the Duties of any Person: The act of any inmate whose actions interfere with anyone in pursuit of their assigned duties.

Level 5 Disciplinary Offenses

601 Court Order Credit Loss: Pursuant to §24-27-200, a prisoner shall forfeit all or part of his earned work, education, or good conduct credits in an amount to be determined by the Department of Corrections upon recommendation of the court or administrative judge. Pursuant to South Carolina Supreme Court Opinion # 25409, filed 02/11/2002 (also known as the Wade Decision). A forfeiture of earned credits pursuant to South Carolina Statute §24-27-2000 cannot be as result of a post conviction relief hearing decision.

845 Unauthorized Services/Piddling (Handicrafts): No inmate shall provide or attempt to provide professional services or handicrafts for any person for any reason whether it is for profit or not.

846 Creating Unnecessary Noise: The act of any inmate who engages in any action which disrupts or may lead to the disruption of the orderly operation of the institution, the yelling/banging or excessive noise level by any inmate.

847 Abuse of Privileges: The willful violation by an inmate of any provision of an institutional regulation dealing with a privilege. A privilege as used in this subsection is any benefit provided by institutional,

SCDC, contracted services, or another governmental agency's regulations.

848 Exerting Any Authority Over Another Inmate, to Include:

1. Administering any punishment or other form of discipline to other inmates;
2. Granting or denying another inmate access to any benefit or activity;
3. Controlling the movement or activities of other inmates;
4. Escorting another inmate from one place to another, without a staff member, except as required by a bona fide emergency;
5. Inventorying, with or without a staff member, another inmate's property or searching another inmate, his/her living area, or his/her property;
6. Mailing or distributing another inmate's correspondence;
7. Participating in the taking of any count; and
8. Enforcing any SCDC or institutional or other governmental agency rule or regulation.

849 Disregarding Safety Regulations, to Include:

1. Failing to wear safety goggles when performing any grinding, chiseling, filing, chipping, or buffing operation;
2. Failing to wear hearing protection on any work station designated as a high noise level area or failing to wear work or safety shoes when instructed;
3. Continuing to work in an area or on any machinery or equipment that is deemed unsafe or improperly guarded by the work supervisor;
4. Operating machines or equipment or performing any operation that has not been specifically assigned;
5. Operating equipment without using the safety guards provided or removing the safety guards;
6. Unauthorized fabricating or repairing of personal items on government agency equipment;
7. Riding on the draw bars of farm vehicles;
8. Standing up while riding in moving vehicles or allowing legs to hang over sides of trailers while moving;
9. Creating a health and/or safety hazard (to include flooding of cells).

850 Violation of a Written or Posted Institutional Rule Not Contained in These Rules, But Consistent with These Rules.

851 Supervised Furlough II Violation: Any inmate who is returned to the custody of the SCDC due to a violation of the Supervised Furlough Program. S/he will fail to earn any good time for the month s/he is returned to the custody of SCDC (automatic forfeiture). NOTE: For further clarification, refer to SCDC Policy OP-21.11, "Loss of Statutory Good Time."